

## Internal Revenue Service

## Department of the Treasury

Washington, DC 20224

Person to Contact: [REDACTED]

Telephone Number: [REDACTED]

Refer Reply to: [REDACTED]

Date: JAN 7 1993

DO: Cincinnati  
EIN: [REDACTED]

Dear Applicant:

This is in response to your letter of [REDACTED], protesting our proposed adverse determination of [REDACTED], regarding your application for recognition of exemption under section 501(c)(6) of the Internal Revenue Code.

Our proposed adverse determination of [REDACTED], concluded that you did not qualify for recognition of exemption under section 501(c)(6) because the only group of individuals which directly benefit from experience rating are members of the affiliated nurserymen's association. The members of the association amount to only [REDACTED] percent of the industry within your state. Therefore, the benefit any other company in the industry receives by reason of your experience rating is tenuous at best.

On [REDACTED], we held a conference with your representative during which we discussed our proposed adverse determination. You subsequently submitted additional information to assist us in making a determination regarding your application. We have reviewed the supplemental materials and have concluded that our proposed adverse determination of [REDACTED], is correct.

Accordingly, we have concluded that you are not exempt from federal income tax under section 501(c)(6) of the Code and you will be treated as a taxable organization as of the date of your establishment. Please file federal income tax returns for all years in question.

Sincerely yours,  
[REDACTED][REDACTED]  
Chief, Exempt Organizations  
Rulings Branch 4

12/8/92

1/6/93

Internal Revenue Service

Department of the Treasury

Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply to:

Date:

AUG 26 1992

DO: Cincinnati  
EIN: [REDACTED]

Dear Applicant:

This is in reply to your application for recognition of exemption under section 501(c)(6) of the Internal Revenue Code.

We have reviewed the information you have submitted and have concluded that you do not qualify for exemption under section 501(c)(6) of the Code because your primary purpose is to perform particular services for your members.

The information you have submitted indicates that you were established by the [REDACTED] to enable the members of the association to participate in a state created plan that groups employers for experience rating under the state workers compensation law. Prior to this employers could qualify for experience rating only as individuals.

In order to participate in this program the group must have existed for at least two years, it must have been formed for a purpose other than that of obtaining group workers' compensation coverage, and the businesses in the organization must be similar. You have developed a safety program for the employees of your members and your members will adhere to these standards. You state that only approximately [REDACTED] percent of the licensed nursery operators in [REDACTED] are members of the [REDACTED] and that membership in the experience rating group is limited, by law, to members of the Association. You state that improved safety conditions among your members will reduce the likelihood of increased governmental regulation which will affect the industry as a whole. In addition, because workers' compensation rates which are applicable to a particular industry are dependent upon the safety record of that industry, the activities of this organization will serve to make the industry safer and this increase in safety should reflect the rates applicable to the industry as a whole.

Section 501(c)(6) of the Code provides for the exemption from federal income tax of business leagues not organized for profit, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Re: [REDACTED]

Section 1.501(c)(6)-1 of the Income Tax Regulations provides that a business league is an association of persons having some common business interest, the purpose of which is to promote such common interest and not to engage in a regular business of a kind ordinarily carried on for profit. The activities of the organization must be directed to the improvement of business conditions of one or more lines of business as distinguished from the performance of particular services for individual persons. An organization whose purpose is to engage in a regular business of a kind ordinarily carried on for profit, even though the business is conducted on a cooperative basis or produces only sufficient income to be self-sustaining is not a business league.

Rev. Rul. 68-264, 1968-1 C.B. 264 defines a particular service for the purposes of section 501(c)(6) of the Code as being an activity that serves as a convenience or an economy to the members of the organization in the operation of their businesses.

Rev. Rul. 74-81, 1974-1 C.B. 135 holds that a nonprofit organization formed to promote the business welfare and interests of persons engaged in the contracting trade and related industries and whose principal activity is to provide its members with group workmen's compensation insurance which was underwritten by a private insurance company is not entitled to exemption under section 501(c)(6) of the Code. By providing group workmen's compensation insurance for its members the organization relieves the members of obtaining this insurance on an individual basis, resulting in a convenience in the conduct of their businesses. Therefore, the organization was rendering particular services for individual persons as distinguished from the improvement of business conditions in the industry in general.

It is clear from the information you have submitted and the state statute that the only group which will directly benefit from experience rating will be the members of the affiliated [REDACTED] association. This amounts to only [REDACTED] percent of the industry within the state. The benefit any other company may receive by reason of your experience rating is tenuous at best.

Accordingly, we have concluded that your program results in an economy or a convenience in the conduct of the members of the affiliated association's businesses. It appears that by participating in your program they can obtain better experience rated insurance rates than they otherwise could. This serves as an economy or a convenience to them and because it is your sole

Re: [REDACTED]

activity you cannot qualify for recognition of exemption under section 501(c)(6) of the Code.

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement, signed by one of your officers, must be submitted within 30 days from the date of this letter. You also have a right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by someone who is not one of your officers or directors, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practices Requirements.

If we do not hear from you within 30 days, this ruling will become final and copies will be forwarded to your key District Director. Thereafter, any questions about your federal income tax status or the filing of tax returns should be addressed to that office.

When submitting additional letters with respect to this case to the Internal Revenue Service, you will expedite their receipt by placing the following symbols on the envelope: E:EO:R:1-3 JJ, Room 6236. These symbols do not refer to your case but rather to its location.

cc: DO, Cincinnati  
ATTN: SO Long

cc: [REDACTED]

Sincerely yours,

[REDACTED]  
Chief, Exempt Organizations  
Rulings Branch 4

[REDACTED]  
8/25/92

[REDACTED]  
8/26/92